

## OUR SAN FRANCISCO LETTER.

Per Steamship Australia, February 28, 1888.

[Special Correspondence of the Gazette.]

Mills, of the Ways and Means Committee, has announced that his Revenue Reduction bill will be brought before the whole Committee at the regular meeting to-day. The whole amount of the internal revenue tax on manufactured tobacco, \$10,000,000, from the \$20 per cent. reduction on sugar duties, \$5,000,000, from additions to the free list, with a scaling down of the customs duties on various articles. Randall has submitted his tariff schedule to Mills. In it the duties are, as a rule, higher than desired by the Democrats of the Committee. It is understood that Mills favors striking the medium as far as possible, but that a split will be made on free wool, to which Randall will not agree.

Information has been received from Washington to the effect that a most rigid inquiry will be held into the alleged opium ring in San Francisco. Deputy Secretary of the Port of San Francisco, Mr. J. H. Patterson, is reported to have been ordered to investigate the matter, and to report to the Commissioner of Customs, Mr. J. H. Patterson, on or before the 15th inst.

Claus Spreckels and A. B. Spreckels started yesterday for New York. As is only natural, the greatest interest has been created, both here and in the East, concerning the object of their visit, which was outlined in my previous letter by the Belgie. Telegrams from New York have been published, in which it is intimated that Spreckels has already a good business understanding with the Trust; then again the Havemeyers laugh at the idea of his building a refinery in New York; then again others think it likely that he will do so; then again it is denied that refineries now outside of the Trust will join him; then again that Jay Gould has secured all the Cuban sugar crop, which has caused an advance in price; then again that Spreckels is only playing a bluff game in order to prevent the duty on sugar from being reduced, as this, to quote Havemeyer, "would lay him on his back." These are about all the rumors, and enough of them, surely!

A stockholder in the American Refinery stated, as reported in the Post, that an arrangement had been made between the Trust and the American Refinery whereby the latter would be able to sell their sugar at a profit, or, if this could not be done, that the Trust would buy their surplus at a figure which would secure them against loss. On the other hand, if the California Refinery had a surplus to dispose of in the East that the Trust would only take it at a nominal figure which would be practically ruinous to the Spreckels. The stockholder confessed, however, that this new move on the part of the latter gentlemen was a surprise to them, and quite unexpected. As to the reduction or abolition of the duty on sugar, Mr. Spreckels claims that it will not affect him either way. As he gets only his own sugar from the Islands he will have that to refine at the cost of production which will be as cheap as any sugar with the duty off, and if the duty be reduced then he will derive a benefit in his importations from Manila. All the different phases of this question are given because here are of the utmost importance to Hawaiians, who will watch the course of events with the deepest interest. The New York World, in an editorial headed "Welcome Spreckels," hopes that it is true that that gentleman has formed a syndicate to fight the Eastern Sugar Trust on its own ground, and says that he has money and skill to do it.

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Some of the last Portuguese arrivals from the Islands have been complaining of the treatment they received on the plantations here, reviving the old stories of the whipping-post and of lunas standing over them with revolvers in their hands ready to shoot them down.

Mr. L. Montgomery Mather has not yet succeeded in sending any tourists to Honolulu, notwithstanding the more encouraging news that was heard of him lately. It may be, however, that the small-pox quarantine has scared the intending travelers and that he has consequently been unable to form a party.

Only one case of small-pox has been reported in the last three days, which looks an end to the disease, and the last case from China brought no fresh cases. The House Committee of Manufactures is investigating the Sugar Trust in New York instead of Collector Magone, as there was not the least information at the Custom office relating to the Trust.

J. D. Spreckels & Bros. have purchased a ship Alexander McNeil, 1,042 tons register, and will place her in the Hawaiian trade. She will be commanded by Captain Howard Emery of the W. C. Case.

A terrible disaster occurred yesterday morning at Vallejo. The old steamer Julia was blown up and totally destroyed, with a loss of life, as she was starting on her way to San Francisco with nearly 70 persons on board. As nearly as can be ascertained there are forty killed, the remainder more or less wounded. The accident is supposed to be due to the explosion of the kerosene lamp which was used for fuel instead of coal. Had the accident occurred later all the passengers from San Francisco would have been on board and loss of life been greater. The steamer belonged to the Southern Pacific Company. Her last advance in raw sugar took place Feb. 24th, the price now being 3-16 cents per lb.

be Charitable this morning published a correspondence relative to the extension of the Hawaiian Treaty, but it contains nothing new or of importance.

There is but little shipping news to report as the departure of the Belgic. It is as follows: Francisco-Departure: Feb. 23d, S. S. S. for Honolulu; Feb. 26th, schr. W. S. S. for Honolulu; Feb. 27th, bark. Calabar for Honolulu; Feb. 28th, bark. Planter for Honolulu.

Departures for Honolulu: Alex. S. S. on March 2d; S. G. Wilder, Forest, S. S. N. Castle and Consuelo. Steamer from Pago Pago report following vessels as loading. For Honolulu: At Burrard Inlet the bark. Pacific at Usualda the bktn. St. Lucia; at Discovery the bark. W. M. H. For Honolulu: At Port Laidlow the bark. James A.

A large ship J. R. Kelly has sailed for the island and will return with 4,000 tons of rice.

## Supreme Court of the Hawaiian Islands—In Banco, in Equity. January Term, 1888.

BEFORE JUDGE, C. J., McCULLY, J., PRESTON, J., BICKERTON, J.

Mr. Justice Dole having been of counsel did not sit.

G. W. WILFONG vs. J. H. PATY ET AL.

Opinion by McCULLY, J.

The defendants excepted to the Master's report in finding due the defendants three hundred eighty-five and 48-100 (\$385.48) dollars and moved that the report be modified to allow the defendants fifteen hundred sixty-nine and 63-100 (\$1569.63) dollars, which exception was allowed by the Chief Justice to the extent of allowing the sum claimed less the sum of one hundred forty-nine and 95-100 charged for compound interest.

From this decision the plaintiff appealed. By reference to the litigation in this case and the decision of the Court, upon which reference was made to the Master for computation, it will be seen that the Court determined that the defendants, Paty and Parker, held certain shares of the Hawaiian Agricultural Company as a pledge to secure the payment both of notes and interest given with a mortgage upon a planting interest in Hanakua, and of a certain note for six thousand (\$6,000) dollars originally given to C. Brewer & Co., with whom the shares were then first pledged, and the Court further held that the subsequent re-conveyance by the plaintiff to the defendants of the planting interest, was a release of the charge on the shares for the notes which had been given for the plantation, leaving the shares then pledged for the payment of the six thousand (\$6,000) dollar note, as originally pledged to Brewer & Co.

The plantation was sold back to defendants, March 31, 1884. The defendants make an account appropriating from the dividends an amount sufficient to meet the interest to that date on the six thousand (\$6,000) dollars note, the remainder of the dividends going in against the interest on the other notes, and from that date appropriating all the dividends to the interest and in reduction of the principal. In this way the balance due on the note is fifteen hundred sixty-nine and 63-100 (\$1569.63) dollars. The plaintiff claims that the whole of the dividends from the beginning should have been appropriated to the interest and reduction of the principal of this note.

By this computation the balance due is three hundred eighty-five and 48-100 (\$385.48) dollars.

What should be the rule of appropriation? In this case the debtor made no appropriation, for the money did not pass through his hands, and he does not appear to have made any claim at this time to direct the receipts to any account, they being of very inconsiderable amount in proportion to his whole indebtedness.

The creditor did not at that time make a specific appropriation for he considered that he had purchased the shares. He kept no account, as to the debtor, of the receipts from dividends.

His account presented to the Court was made only in connection with this suit.

We are left to the third case of the common law, if the common law is followed, of neither party making application.

If neither party makes a specific appropriation of the money the law will appropriate it as the justice and equity of the case may require—per Justice Story, *Creemer vs. Higgins*, 15 Mass. 338, cited in 2 Parsons on Contracts 629, and in 2 Greenleaf's Ev. Sec. 529, Munger on the Application of Payments, Chap. III.

The Court has determined that the defendants were in the position of mortgagees of the stock.

It may be said that the Court has made them mortgagees against their claim that they were the owners of it. "Justice and Equity" would seem to require that they should be placed in that position at the date of the re-sale of the plantation and the discharge of the plantation debt from security on the mortgaged shares.

If the defendants had then recognized their position they would have availed themselves of their right to consider the previous payments by the dividends, in excess of the interest on this note to have gone upon the account of the other debt for which the shares were security, leaving the principal of the note without reduction.

He that asks equity must do equity. The defendants must be considered by the Court as having made the appropriation which should have been made.

There would otherwise be no force in the finding of the Court that these shares were subject to the charge of both the accounts.

The order appealed from is therefore confirmed. W. O. Smith for plaintiff, F. M. Hatch for defendants.

Honolulu, March 5, 1888.

A Stickler for Truth.

EDITOR GAZETTE: I see there is a gentleman who hails from Island Kauai, who signs his name "Reef Orme," meaning, one would suppose on second glance, "Reform me." Now I do wonder if he does really wish to

reform, has he been a very bad man, and earnest in his desire to turn over a new leaf. If such is the case, may be one of the new missionaries which will before long reach these islands might be induced to call on him, and if he is a crooked man in his ways and anxious to become upright, it might pay to charter a canal boat on such a special mission. I should judge he is prone to economize the truth. He should send such articles for publication as the following: "Last night, yesterday morning about one o'clock in the afternoon, before breakfast, a hungry boy about forty years old bought a big eustard for a levy and threw it through a brick wall nine feet thick and jumping over it broke his right ankle off above the knee and fell into a dry mill pond and was drowned. About forty years after that, on the same day, an old cat had nine turkey gobblers. A high wind blew Yankee doodle on a frying pan and killed a sow and two dead pigs at Boston, where a deaf and dumb man was talking to his suit Peter."

Hilo, Feb. 30th.

HILOIDES.

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